

**2003 REPORT OF THE SECRETARY OF COMMERCE
TO THE CONGRESS OF THE UNITED STATES
CONCERNING U.S. ACTIONS TAKEN ON
FOREIGN LARGE-SCALE HIGH SEAS DRIFTNET FISHING
PURSUANT TO SECTION 206(e) OF THE
MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT,
AS AMENDED BY PUBLIC LAW 104-297,
THE SUSTAINABLE FISHERIES ACT OF 1996**

I. INTRODUCTION

Public Law 101-627: On 28 November 1990, the President signed Public Law 101-627, the Fishery Conservation Amendments of 1990. Title I, Section 107, of the law amended Section 206 of the Magnuson-Stevens Fishery Conservation and Management Act (hereafter referred to as the Magnuson-Stevens Act) (16 USC 1826) to incorporate and expand upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Section 206(b) of the Magnuson-Stevens Act sets forth Congressional findings, including inter alia that "the continued widespread use of large-scale driftnets beyond the exclusive economic zone (EEZ) of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans." It also notes the expansion of large-scale driftnet fishing into other oceans and acknowledges the 30 June 1992 global driftnet moratorium called for by United Nations General Assembly (UNGA) Resolution 44/225. Finally, Section 206(b) recognizes the moratorium on the use of large-scale driftnets agreed through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention.

Section 206(c) sets forth the Congress' driftnet policy, specifically that the United States should:

- (1) implement the moratorium called for by UNGA Resolution 44/225;
- (2) support the Tarawa Declaration and the Wellington Convention; and
- (3) "secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation."

Section 206(d) directs the Secretary of Commerce, through the Secretary of State and the Secretary of Homeland Security, to seek to secure international agreements to implement immediately the findings, policy, and provisions of Section 206, particularly the international ban on large-scale driftnet fishing.

Section 206(e) directs the Secretary of Commerce, after consultation with the Secretaries of State and Homeland Security, to submit to Congress no later than 1 January an annual report (1) describing the efforts made to carry out Section 206(c); (2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and plans for further action; (3) listing and describing any new high seas driftnet fisheries developed by nations that conduct or authorize their nationals to conduct large-scale high seas driftnet fishing; and (4) listing nations that conduct or authorize their nationals to conduct high seas driftnet fishing in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party. (The number of reporting requirements in Section 206(e) of Public Law 101-627 were reduced in 1996 to those above by Public Law 104-297, the Sustainable Fisheries Act.)

Finally, if at any time the Secretary of Commerce, in consultation with the Secretaries of State and Homeland Security, identifies any nation that warrants inclusion in the list described in (4)

above, the Secretary shall certify that fact to the President. This certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a), as amended by Public Law 102-582), hereafter referred to as the Pelly Amendment. Such a certification gives the President the discretion to embargo some or all products imported into the United States from that nation, so long as such action is consistent with U.S. obligations under the General Agreement on Tariffs and Trade.

Public Law 102-582: On 2 November 1992, the President signed Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act. Among other things, this Act is intended to enforce implementation of UNGA Resolution 46/215, which called for a worldwide driftnet moratorium beginning 31 December 1992. Once the Secretary of Commerce identifies a country as a nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the Act, a chain of U.S. actions is triggered. The Secretary of the Treasury must deny entry of that country's large-scale driftnet vessels to U.S. ports and navigable waters. At the same time, the President is required to enter into consultations with the country within 30 days after the identification to obtain an agreement that will effect the immediate termination of high seas large-scale driftnetting by its vessels and nationals. If these consultations are not satisfactorily concluded within 90 days, the President must direct the Secretary of the Treasury to prohibit the importation into the United States of fish, fish products, and sport fishing equipment from the identified country. The Secretary of the Treasury is required to implement such prohibitions within 45 days of the President's direction.

If the above sanctions are insufficient to persuade the identified country to cease large-scale high seas driftnet fishing within six months, or if it retaliates against the United States during that time period as a result of the sanctions, the Secretary of Commerce is required to certify this fact to the President. Such a certification is deemed to be a certification under the Pelly Amendment.

Public Law 104-43: Public Law 104-43, the Fisheries Act of 1995, was enacted on 3 November 1995. Title VI of this law, the High Seas Driftnet Fishing Moratorium Protection Act, prohibits the United States, or any agency or official acting on behalf of the United States, from entering into any international agreement with respect to the conservation and management of living marine resources or the use of the high seas by fishing vessels that would prevent full implementation of UNGA Resolution 46/215. This act also specifies that the President of the United States shall utilize appropriate assets of the Department of Defense, the U.S. Coast Guard, and other Federal agencies, to detect, monitor, and prevent violations of the UN large-scale high seas driftnet moratorium for all fisheries under the jurisdiction of the United States, and to the fullest extent permitted under international law for fisheries not under U.S. jurisdiction.

The National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, in consultation with the Department of State and the Department of Homeland Security, submits the following report for 2003 in fulfillment of the Section 206(e) reporting requirement. Information pertaining to U.S. actions in support of the Act prior to 2003 and after 1988 can be found in the 1990-2002 annual driftnet reports to the Congress available from NMFS.

II. DESCRIPTION AND PROGRESS OF EFFORTS MADE TO CARRY OUT PROVISIONS OF SECTION 206(c) POLICY

A. Implementation of the Driftnet Moratorium called for by UNGA Resolutions 44/225, 45/197, and 46/215:

1. Current Status of the Driftnet Moratorium

As of 31 December 2003, the UNGA global moratorium on large-scale high seas driftnet fishing has been in effect for 11 years. International implementation of the moratorium in the world's oceans and enclosed and semi-enclosed seas continues to be generally successful. Twenty six possible cases of unauthorized large-scale high seas driftnet fishing were reported in the North Pacific Ocean in 2003.

a. North Pacific Ocean

Seven large-scale driftnet fishing vessels were intercepted on the high seas of the Northwestern Pacific Ocean by the international community in 2003. In addition, there were 19 sightings of other vessels operating in the Northwestern Pacific that were capable of driftnet fishing.

(1) Regional Driftnet Enforcement Efforts

North Pacific Anadromous Fish Commission (NPAFC): The NPAFC serves as a forum for promoting the conservation of anadromous stocks and ecologically-related species, including marine mammals, sea birds, and non-anadromous fish, in the high seas area of the North Pacific Ocean. This area, as defined in the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean (the Convention that established the NPAFC), is "the waters of the North Pacific Ocean and its adjacent seas, north of 33° North Latitude beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured." The members of the NPAFC are Canada, Japan, Russia, the United States and the Republic of Korea, who joined in mid-2003.

In addition, the NPAFC serves as the venue for coordinating the collection, exchange, and analysis of scientific data regarding the above species within Convention waters. It also coordinates high seas fishery enforcement activities by member countries. The Convention prohibits directed fishing for salmonids and includes provisions to minimize the incidental take of salmonids in other fisheries in the Convention area. Although the Convention does not specifically ban high seas driftnet fishing, fishing for salmonids on the high seas has historically been carried out in this manner. As a result, the NPAFC and its enforcement activities are primarily targeted against high seas driftnet fishing vessels. All members of the NPAFC have for the last several years jointly planned and coordinated their high seas enforcement operations in order to most efficiently utilize all enforcement resources. South Korea joined the NPAFC this year after enforcement activities were already underway.

NPAFC Joint Operations Information Coordination Group (JOICG): The NPAFC established the JOICG in 2001 to exchange enforcement-related information, via computer and communications technology, for the protection of salmon resources in the NPAFC Convention Area. The JOICG is comprised of designated enforcement officials from each of the NPAFC Parties, who serve as conduits for the exchange and dissemination of such information to their respective governments. Since November 2001, JOICG points-of-contact have communicated with each other at a minimum of once each month to ensure open lines of communication. The NPAFC Parties effectively used the JOICG to plan and coordinate in-season enforcement activities in 2003 and agreed to continue the work of the Group in 2004.

NPAFC Enforcement Evaluation and Coordination Meeting (EECM): Representatives from the NPAFC Parties met in Queen Charlotte City, B.C., Canada, on 21-22 May 2003, for the annual NPAFC EECM. The meeting included presentations by each Party on enforcement efforts to date in 2003; enforcement plans and resources for the remainder of 2003, an assessment of the effectiveness of the JOICG, and a report by the Enforcement Procedures Working Group, which is charged with evaluating on an on-going basis areas of improvement and expansion of enforcement activities to prevent the illegal harvest of salmon in the Convention Area. While in Queen Charlotte City, attendees participated in a demonstration cruise aboard the Canadian Fisheries Patrol Vessel *TANU*.

NPAFC Annual Meeting: The 11th Annual Meeting of the NPAFC was held in Honolulu, Hawaii, on 26-31 October 2003. Enforcement officials of the Parties met under the auspices of the NPAFC Committee on Enforcement to review enforcement activities in 2003, based on presentations from each Party. Due to the Parties' cooperative enforcement efforts, no vessels were detected engaged in illegal large-scale driftnet fishing for salmon in or near the Convention Area. However, the United States reported that 26 suspected high seas driftnet vessels were sighted. Of that total, four vessels of the People's Republic of China (PRC) were boarded and turned over to the PRC Government for prosecution; two Korean vessels were boarded and evidence of large-scale high seas driftnet fishing was turned over to the Korean Government for further action; and one Russian vessel was sighted with high seas driftnet fishing gear on board and reported to Russian authorities for further action. The Parties were unable to investigate and, in some cases, positively identify the remainder of the vessels. More details on U.S. enforcement efforts are included below

In light of the continuing threat of unauthorized high seas salmon fishing in the Convention Area, Parties agreed to maintain 2004 enforcement efforts at high levels as a deterrent to unauthorized fishing activity. To coordinate enforcement efforts, the Parties agreed to hold the annual EECM in Japan in May 2004. Russia proposed that the Parties consider creating an Integrated Information System that would be used to enter and retrieve information on vessels suspected of illegal high seas driftnet fishing--the equivalent of a "bad-vessel list." The Parties will continue discussions on the proposal at the May 2004 meeting

The contributions of each NPAFC Party to the 2003 high seas driftnet fisheries enforcement effort follow:

(2) U.S. Driftnet Enforcement Efforts in the North Pacific

To monitor compliance with the driftnet moratorium, the USCG and the NMFS Office for Law Enforcement continued to carry out surveillance activities in North Pacific high seas areas that in the past were routinely fished by large-scale driftnet vessels. Operation North Pacific Watch, the USCG's 2003 high seas driftnet enforcement plan, began in April. From April-August 2003, USCG aircraft from Air Station Barbers Point Hawaii and Air Station Kodiak Alaska flew 13 deployments for a total of 195 surveillance hours in the NPAFC Convention Area (386 hours total, including transit time). In addition, USCG Cutters *RUSH* and *JARVIS* patrolled the NPAFC Convention Area for 60 days from June to mid-September. The helicopter on board the USCG Cutter *JARVIS* also flew about 90 hours in support of the *JARVIS*.

NMFS Special Agents and Enforcement Officers deployed with Canadian CP-140 and USCG C-130 air patrols in the NPAFC Convention Area expended a total of 257 person-hours engaged in high seas driftnet fisheries enforcement activities in 2003.

Patrol Results: A number of vessels were detected fishing illegally with large-scale driftnets, or carrying gear on board which could potentially be used for large-scale driftnet fishing in the NPAFC Convention Area. All boardings took place under the authority of the NPAFC Convention. Vessels boarded by the USCG were targeting squid and had tuna, shark, and billfish on board as bycatch--no anadromous species were found on any of the vessels. Seawater temperatures in the vicinity of illegal driftnet activity ranged from 12.5° – 17° Celsius. A summary of high seas driftnet capable vessels detected by USCG aircraft and cutters is provided in Table 1. Only those vessels shown in bold were actually intercepted by the USCG. The other vessel listings represent sightings only. These vessels had similar design and/or gear as known high seas driftnet vessels and were sighted in common high seas driftnet fishing areas, however there is no confirmation that they had fished, or intended to fish, with large-scale driftnets.

Table 1. Summary of driftnet-capable vessels detected by the U.S. Coast Guard in the North Pacific Ocean in 2003.

Date Sighted	Vessel Name* (Flag State**)	Position	Action
13 June	<i>ZHE YUAN DONG 825</i> (PRC?)	38-29N, 175-05E	Sighting passed to PRC and NPAFC.
13 June	Unknown (PRC?)	38-28N, 175-00E	Sighting passed to PRC and NPAFC.
13 June	Unknown	38-28N, 175-04E	Sighting passed to PRC and NPAFC.
18 June	<i>ZHE YUAN DONG 826</i> (PRC?)	38-00N, 175-00E	Sighting passed to PRC and NPAFC.

18 June	Unknown (PRC?)	38-00N, 175-00E	Sighting passed to PRC and NPAFC.
18 June	<i>JING LU YU 117</i> (PRC?)	39-02N, 175-28E	Sighting passed to PRC and NPAFC.
24 June	<i>JING LU YU 116</i> (PRC?)	39-02N, 175-28E	Sighting passed to PRC and NPAFC.
24 June	<i>JING LU YU 119</i> (PRC?)	39-02N, 175-28E	Sighting passed to PRC and NPAFC.
25 June	<i>FU XING NO. 38</i>	39-46N, 174-34E	Sighting passed to PRC, Taiwan, and NPAFC.
30 June	<i>QI DONG 4121</i> (PRC) aka <i>DONG HAI 821</i>	40-08N, 177-40E	Boarded. Seized by PRC.
19 July	<i>ZROU TUAN</i>	41-39N, 161-58E	Sighting passed to PRC and NPAFC.
20 July	<i>ZHOU SHUN YU 2002</i> (PRC)	41-58N, 162-39E	Boarded. Seized by PRC.
21 July	<i>JING LU YU No. 101</i> (PRC)	41-01N, 160-38E	Boarded. Seized by PRC.
21 July	<i>JING LU YU No. 102</i> (PRC?)	41-01N, 160-38E	Sighting passed to PRC and NPAFC.
21 July	<i>JING LU YU No. 105</i> (PRC?)	41-01N, 160-38E	Sighting passed to PRC and NPAFC.
22 July	<i>201 YU 10</i>	47-48N, 161-56E	Sighting passed to PRC and NPAFC.
22 July	<i>ZHE YUAN DONG 803</i>	47-46N, 161-34E	Sighting passed to PRC and NPAFC.
22 July	<i>K.M. VICTORIA JAYA IV</i> (Indonesia?)	45-05N, 160-36E	Sighting passed to PRC, Indonesia, and NPAFC.
22 July	Unknown	47-50N, 162-06E	Sighting passed to PRC and NPAFC.
22 July	Unknown	47-50N, 162-06E	Sighting passed to PRC and NPAFC.
23 July	<i>ZHOU SHUN YU 2010</i> (PRC?)	45-11N, 160-48E	Sighting passed to PRC and NPAFC.

04 August	Two unknown	44-06N, 171-13E	U.S. fishing vessel sighting.
07 August	SHU GUANG YU 1 (PRC)	40-35N, 155-36E	Boarded. Seized by PRC.
12 August	305 KUM MI (ROK)	43-18N, 155-25E	Boarded. Case package passed to ROK.
12 August	ZHENG YANG NO. 3 (ROK)	42-15N 155-26E	Boarded. Case package passed to ROK.
12 August	ARONT (Russia)	43-11N, 154-54E	Sighting passed to Russia and NPAFC.

* - The vessel names in bold are those vessels actually intercepted by the USCG. The other vessel listings represent sightings only.

** - ? indicates that the flag state was assumed based on vessel characteristics, but not confirmed.

Of the above vessels, four were boarded and turned over to PRC authorities for prosecution, two ROK vessels were boarded and evidence of large-scale high seas driftnet fishing was turned over to ROK authorities for investigation, and one Russian vessel outfitted for high seas driftnet fishing was sighted and reported to Russian authorities for investigation.

F/V QI DONG 4121: Based on information provided by a USCG C-130 aircraft, the USCG Cutter *RUSH* intercepted the *QI DONG 4121* (also referred to as the *DONG HAI 821*) on 30 June actively engaged in large-scale high seas driftnet fishing. The PRC Government exercised presumptive flag state authority over the vessel and it was directed to return to port in the PRC. Acting under PRC instructions, the USCG boarding party disabled the *QI DONG 4121*'s nets and net retrieval gear, inventoried its catch, sealed holds containing the catch, fingerprinted the master, and marked the top of the pilothouse with a large red "X" so the vessel could be more easily identified from the air, before releasing it. The catch consisted of 950 lbs. of shark fins, 2.5 tons of sharks, 2.4 tons of tuna, and 104.5 tons of squid. On 17 July, the *QI DONG 4121* was intercepted by two PRC enforcement vessels and escorted into port for investigation and enforcement action.

F/V ZHOU SHUN YU 2002: The USCG Cutter *JARVIS* intercepted the *ZHOU SHUN YU 2002* on 20 July. The vessel was suspected of conducting illegal high seas driftnet fishing in the North Pacific. Crew members were observed cutting net and throwing it overboard as the *JARVIS* approached. The USCG boarding team, which included a PRC Government official, also saw indicators that the vessel had been illegally driftnet fishing. Although the master of the *ZHOU SHUN YU 2002* claimed he was legally squid jigging, 6-7 nautical miles of wet driftnet was found in the aft net bin. An internal net tube was also found on board. Finally, the vessel's catch was inconsistent with squid jigging--21 tons of squid, 4 tons of tuna, and 350 lbs. of shark fins. On 21 July, the PRC Government confirmed that the vessel was a registered PRC fishing vessel and dispatched a fisheries enforcement vessel to rendezvous with the *JARVIS* and escort the *ZHOU SHUN YU 2002* back to the PRC.

F/V JING LU YU NO. 101: A boarding party from the Cutter *JARVIS* boarded the *JING LU YU NO. 101* on 22 July, while the *JARVIS* was escorting the *ZHOU SHUN YU 2002* in the general direction of the PRC. The boarding party determined that the vessel was also registered in the PRC. The vessel's catch composition (8 tons of shark, tuna, and squid) and gear indicated that the vessel was likely engaged in high seas driftnet fishing. On 27 July, the *JARVIS* turned custody of the *JING LU YU NO. 101* and *ZHOU SHUN YU 2002* over to the PRC fisheries enforcement vessel *ZHONG GUO YO ZHENG 118*, which escorted them back to port in the PRC.

F/V SHU GUANG YU NO. 1: The USCG cutter *JARVIS* intercepted the F/V *SHU GUANG YU NO. 1* on 7 August. As the *JARVIS* approached the vessel, its crew was attempting to stow transponder buoys below deck. The USCG boarding team, lead by a PRC enforcement official, found about 5 nautical miles of driftnet on board, still wet and containing fish remains. The boarding party determined that the vessel was PRC-flagged and the master was a PRC citizen. The master admitted that the vessel had been driftnet fishing and netmarked tuna were found in the hold. The catch consisted primarily of squid and tuna. The USCG escorted the *SHU GUANG YU NO. 1* to a rendezvous point with the PRC enforcement vessel *ZHONG GUO YU ZHENG NO. 201*, which took custody of the vessel. Because of prior operational tasking by the PRC Government, the *ZHONG GUO YU ZHENG NO. 201* welded the hold of the vessel shut and destroyed its nets before continuing its patrol to the area where the PRC squid jigging fleet was operating.

F/V 305 KUM MI and F/V ZHENG YANG NO. 3: On 11 August, the USCG Cutter *JARVIS* observed the ROK fishing vessel *305 KUM MI* actively hauling back a large pelagic driftnet. The ROK master stated that he was driftnet fishing with more than 5 nautical miles of driftnet. The *JARVIS* also observed and videotaped crew members cutting away the driftnet remaining on the vessel and jettisoning it into the water. Given the physical evidence and the master's admission, there is little doubt that the vessel was conducting large-scale high seas driftnet fishing operations. The catch consisted of tuna, shark fins, squid, and marlin. At the USCG's request, the *305 KUM MI* retrieved two other driftnets in excess of 5 nautical miles ghost fishing in the vicinity.

On 12 August, the *JARVIS* intercepted the ROK-flagged F/V *ZHENG YANG NO. 3*. The master of the vessel claimed he was fishing for squid by hand and had 10 km of driftnet on board that had not been used. While conducting the boarding, the boarding party found fresh fish parts in the 10-km section of driftnet in the net bin--evidence of illegal large-scale high seas driftnet fishing. The *ZHENG YANG NO. 3* had been boarded on 3 July by a boarding party from the USCG Cutter *RUSH*, but the vessel appeared to be squid jigging by hand and its driftnet gear was dry, stowed and covered.

The ROK Government indicated it would fully investigate the two cases upon receipt of USCG law enforcement case packages and the return of the vessels to port. The United States provided the ROK Government the case packages in mid-October 2003 and is awaiting the outcome of the investigation.

F/V ARONT: The helicopter from the Cutter *JARVIS* sighted the F/V *ARONT* on 12 August in the vicinity of the 305 *KUM MI*. The *ARONT* was determined to be a Russian fishing vessel equipped for both high seas driftnet fishing and support for other vessels, given its large size (approximately 400 ft long). It had a driftnet tube on the starboard side, nets stacked on the stern, tarps on the bow that may have concealed more netting, and net recovery equipment rigged on the port bow.

The USCG notified the Russian National Border Coordination Center of the Pacific Region of the sighting, but the Russians did not have any available patrol boats to act on the information. Russia's vessel monitoring system showed that the *ARONT* had left Hachinohe, Japan, on 12 August and arrived in Kushiro, Japan, on 13 August. When Russian authorities asked Japan to verify this information, Japanese authorities stated that the *ARONT* had been in the port of Wakkanai from 11-16 August and that it was not equipped for fishing with driftnets. Russian authorities are continuing to investigate these discrepancies. In the meantime, Russia has suspended the *ARONT*'s fishing permits and licenses and has ordered Russian patrol assets to be on the lookout for vessels that look similar to the *ARONT*. Russia has recently confirmed that the *ARONT* was engaged in illegal activity and will advise the NPAFC Parties of the final results of its investigation.

(3) Canadian Driftnet Enforcement Efforts in the North Pacific

Canada conducted 217 hours of aerial surveillance in the North Pacific high seas driftnet fishing area in 2003. Canadian flight operations involved two Department of National Defense (DND) CP-140 Aurora aircraft contracted by the Department of Fisheries and Oceans (DFO), associated flight crews, technicians and ground support, plus two DFO fishery officers and one NMFS special agent. A total of 20 patrols were conducted from Eareckson Airfield, Shemya Island, Alaska, from 10-29 May 2003. The average duration of each patrol was 8 hours. The surveillance area was a quadrilateral defined by the coordinates 40°N, 175°W; 50°N, 175°W; 53°N, 167°E, and 40°N, 149°E. These coordinates were chosen based on the high probability of thermoclines used by salmon, USCG threat assessment information, and experience. In addition, a member of the Canadian DND assigned to the operational tasking of the aircraft was located at USCG 17th District Headquarters in Juneau, Alaska, to coordinate information and surface support operations.

Patrol Results: Canadian surveillance flights detected 585 targets within the operational area; 76 of which were further investigated due to size, speed, or other information. Four vessels were of particular interest. Of these, three were loitering and suspected of transferring fish products at sea. The fourth vessel, the *FU XING NO. 38*, was positively identified as a high seas driftnet vessel. It was sighted on at least two separate occasions with nets on the fore and aft decks, but was not observed actively fishing.

(4) Japan's Driftnet Enforcement Efforts in the North Pacific

Japan's 2003 driftnet fishery enforcement efforts consisted of the deployment in the North Pacific Ocean of four Fisheries Agency of Japan (FAJ) patrol vessels for a total of 105 ship days at sea, two Hokkaido local government patrol vessels for 145 ship days at sea, and 14 Japanese Coast Guard vessels for a total of 126 ship days at sea. Vessel patrols took place from April-July 2003. Japanese Coast Guard and FAJ aircraft flew a total of 92 hours (72 hours for fixed wing and 20 hours for helicopter) and 60 hours, respectively, in May-July 2002, in the North Pacific. No illegal fishing activity was observed.

(5) Russian Federations's Driftnet Enforcement Efforts in the North Pacific

The Border Service of the Federal Security Service of the Russian Federation utilized the enforcement assets of the Northeast Regional Border Directorate (NRD) in Petropavlovsk-Kamchatsky and the Pacific Regional Border Directorate (PRD) in Vladivostok to patrol the North Pacific Ocean for driftnet violations in 2003. The NRD employed five patrol vessels for a total of 156 days between April 2 and August 28, and conducted 10 aerial surveillance flights between June 10-August 25, 2003, in the NPAFC Convention Area. The PRD employed three patrol vessels for 77 days between July 1 and August 25 and conducted three surveillance flights between June 23-August 23 in the southern part of the NPAFC Convention Area. The Russians employed AN-72 aircraft for all of the surveillance flights.

Patrol Results: Russia received notification from the USCG that the Russian fishing vessel *ARONT* was sighted within the Convention Area and was suspected of illegal driftnet fishing. Details on the *ARONT* sighting are included above, under the section of this report on U.S. enforcement efforts in the North Pacific Ocean.

(6) Potential Driftnet Threat in the North Pacific Ocean in 2004

Despite the actions taken by the international community to implement the UN global driftnet moratorium, large-scale high seas driftnet fishing activity persists in the North Pacific Ocean. The high threat areas for illegal large-scale high seas driftnet fishing in 2004 are expected to remain consistent with those areas where such activity was detected in the past. Driftnet fishing targeting salmon is expected to take place north of 47°N, west of 173°E, and bounded by the U.S. and Russian EEZs. The greatest threat period for salmon is generally from April through June and for other species is from April through September. High Seas driftnet fishing vessels targeting squid may deploy nets in areas of strong temperature change. Targeted areas primarily include waters with a sea surface temperature (SST) between 14-17° Celsius. Strong evidence suggests fishing vessels target areas where SST changes rapidly in short distances. Historical evidence shows that Japanese fishing vessels deployed driftnets in areas where SST may differ by 2-3° Celsius from one end of the net to the other. Prime fishing areas may be locations where the SST isotherm dips down to the south and forms a "u" shaped pocket.

U.S. Enforcement Efforts for 2004: To support U.S. enforcement efforts in the area in 2004, the USCG will emphasize surveillance with its HC-130 aircraft at levels adequate to meet the high seas driftnet fishing threat. The USCG also intends to continue its policy of issuing *Local Notices to Mariners* prior to and during the high-threat driftnet fishing season. It intends to improve upon the information provided in these notices and will partner with the other Parties to the NPAFC to provide more detailed information on high seas driftnet fishing to mariners via an internet website. The United States will continue to encourage other countries in the region to establish similar systems for advising mariners.

NMFS will continue to place enforcement officers on Canadian high seas driftnet surveillance flights during 2004.

Canadian Enforcement Efforts for 2004: The Canadian Government will commit 180 hours of air surveillance time to high seas driftnet fisheries enforcement in 2004. The 2004 patrol area will be similar to the area patrolled in 2003.

Japanese Enforcement Efforts for 2004: Japan intends to maintain the same level of enforcement effort in 2004.

Russian Enforcement Efforts for 2004: Russia intends to maintain the same level of enforcement in 2004. Ten surveillance flights are planned from the NRD between May and July 2004, and three flights from the PRD using AN-75 and AN-24 aircraft between May and July 2004.

Multilateral Enforcement Efforts for 2004: The Parties to the NPAFC have agreed to maintain 2004 enforcement efforts at high levels to ensure a sufficient enforcement presence in the area to serve as an effective deterrent. To coordinate enforcement efforts, the Parties agreed to tentatively hold the EECM in Japan in May 2004.

b. Mediterranean Sea

The United States received no reports of confirmed sightings of large-scale driftnet vessels operating on the high seas of the Mediterranean Sea in 2003. However, on 20 November 2003, the World Wildlife Federation (WWF)-International released a report titled “Biodiversity impact of the Moroccan driftnet fleet in the Alboran Sea.” The report claims that the Moroccan driftnet fleet, with 177 vessels, is killing thousands of dolphins and other vulnerable species, such as sharks and sea turtles, in the Alboran Sea and around the Straits of Gibraltar. The WWF also alleges that Italian, French, Turkish, and most probably other fishing fleets are using driftnets in breach of existing legislation and the United Nations driftnet moratorium. The WWF report came out in advance of the Conference on Mediterranean Fisheries, which was held in Venice, Italy, on 23-25 November 2003. The WWF is urging the EU to monitor and prosecute all of the fleets of its member states using driftnets. It is also calling on the General Fisheries Commission for the Mediterranean, and non-EU countries, particularly those in North Africa, to introduce legislation banning the use of driftnets in the Mediterranean Sea.

European Union (EU): In 1997, the EU began to consider an EU-wide driftnet ban in the Mediterranean Sea and North Atlantic Ocean as a means of effectively enforcing the UN driftnet moratorium. On 8 June 1998, the EU Fisheries Council adopted a law banning the use of driftnets by 1 January 2002 in all waters falling within the jurisdiction of Member States, as well as outside those waters. The EU driftnet ban entered into force on 1 January 2002.

International Commission for the Conservation of Atlantic Tuna (ICCAT) Driftnet Resolution: On 26 November 2003, ICCAT adopted at its 18th Annual Meeting in Dublin, Ireland, a recommendation which prohibits the use of driftnets in fisheries for large pelagic species in the Mediterranean by its Contracting Parties, Cooperating Non-Contracting Parties, Entities, and Fishing Entities. Unless they file a formal objection to the recommendation, the Contracting Parties are legally bound by the recommendation. In practical terms, the recommendation closes a driftnet fishing loophole that could be used by countries which are members of ICCAT but not the EU, and therefore are not bound by the EU driftnet ban. Unlike the UN high seas driftnet moratorium, neither the EU ban nor the ICCAT recommendation differentiates between driftnet fishing on the high seas or in territorial waters--driftnet fishing is prohibited in both. A copy of the recommendation is provided at Attachment 1. At the time the recommendation was adopted, Morocco made a statement for the record of its intention to devise a national plan to phase out driftnet gear and pledged to work with the European Union and others to accomplish this.

2. Interagency Agreements

Fisheries Enforcement Memorandum of Understanding (MOU): On 11 October 1993, the Secretaries of Transportation, Commerce, and Defense entered into the Memorandum of Understanding Between the Secretary of Transportation, the Secretary of Commerce and the Secretary of Defense Relating to the Enforcement of Domestic Laws and International Agreements that Conserve and Manage the Living Marine Resources of the United States. The MOU, required under Section 202 of Public Law 102-582, the High Seas Driftnet Fisheries Enforcement Act, established a mechanism for the use of the surveillance capabilities of the Department of Defense for locating and identifying vessels violating U.S. marine conservation laws and international agreements, including UNGA Resolution 46/215. The MOU also set formal procedures for communicating vessel locations to the Secretary of Commerce and the U.S. Coast Guard. A copy of the MOU was attached to the 1993 Driftnet Report to the Congress.

3. Bilateral Driftnet Agreements

a. U.S.-PRC MOU

The United States and the PRC continued to work together in 2003 to ensure effective implementation of UNGA Resolution 46/215 in the North Pacific Ocean pursuant to the terms of the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991*, signed in Washington D.C. on 3 December 1993. The MOU (also referred to as the "Shiprider

Agreement") established boarding procedures for law enforcement officials of either country to board and inspect U.S. or PRC flagged vessels suspected of driftnet fishing. The MOU also established a shiprider program, which allows PRC fisheries enforcement officials to embark on U.S. Coast Guard resources during each driftnet fishing season. Pursuant to this provision, the PRC has provided enforcement officials to the USCG each year since the MOU entered into force. As a bilateral enforcement agreement, the MOU facilitates/expedites investigations of suspicious vessels when they are encountered on the high seas. The current MOU expires on 31 December 2004.

Four PRC fisheries officials were embarked on USCG cutters from mid-April through August during the 2003 high seas driftnet fishing season. These officials were instrumental in facilitating boarding and communications with PRC-flagged vessels. The United States hopes to embark a similar number of PRC officials on USCG cutters during the 2004 fishing season. The PRC Bureau of Fisheries is planning a month-long training program at the Shanghai Fisheries University for 10 candidates for the 2004 shiprider program.

The United States was particularly pleased with the responsiveness and cooperation received from the PRC Government regarding the cases of the PRC driftnet vessels intercepted in 2003. For example, PRC officials contacted other PRC-flagged vessels legally fishing in the area of the illegal activity and requested information on any suspicious activity. They received two reports, passed the information to the USCG, and as a result, the USCG was able to intercept the *JING LU YU NO. 1*. Although the United States is troubled by the sudden appearance of an apparent fleet of PRC high seas squid driftnet vessels in the Northwestern Pacific, it is pleased by the PRC Government's serious response to the problem.

The PRC has domestic legislation outlawing driftnet fishing, and the PRC Public Security Bureau is cooperating with the Bureau of Fisheries to prosecute the owners of these vessels. On 7 November, the PRC Bureau of Fisheries reported on the results of the PRC's investigations of the 2003 PRC driftnet cases. The penalties that were applied to the owners and masters of high seas driftnet fishing vessels interdicted by the USCG Cutters *RUSH* and *JARVIS* are shown in Table 2.

The penalties imposed by the PRC Government represent a heavy economic burden on the vessel owner and master, but fall short of criminal punishment. The highest fine permitted under PRC law for driftnet offenses is approximately \$12,100. The confiscated fishing gear is an additional economic punishment for the owners, as it represents an investment of \$40,000 or more per vessel. To further crack down on illegal high seas driftnet fishing, the PRC has recategorized the squid fishery for 2004 from a coastal fishery to a distant water fishery, requiring inspections of the squid vessels by immigration and customs officials, and catch reporting upon return to port. Finally, the PRC Government has taken steps to stop transshipment vessels from supporting the high seas driftnet fleet.

Table 2. Penalties imposed by the PRC Government on PRC driftnet vessel owners and masters, 2003.

Vessel	Fine	Gear and Catch	Master's License	Vessel Disposition
<i>JING LU YU 101</i>	\$11,600	Confiscated	Revoked	Permanently banned from fishing
<i>JING LU YU 102</i>	\$ 4,600	Confiscated	Revoked	Permanently banned from fishing
<i>ZHOU SHUN YU 2002</i>	\$12,000	Confiscated	Revoked	1-year fishing suspension
<i>SHU GUANG YU 1</i>	None	Confiscated	Revoked	Seized; auctioned for \$109,000; permanently banned from fishing
<i>QI DONG 4121</i> (aka <i>DONG HAI 821</i>)	\$12,000	Confiscated	Revoked	Scrapped for \$54,000

The PRC has requested that (1) a U.S. fisheries law enforcement delegation visit China in March or April 2004 for a bilateral meeting and a field trip; (2) the U.S. provide fisheries enforcement training for two PRC delegations per year, and (3) the U.S. provide approximately \$1 million worth of bunker fuel to PRC fisheries enforcement vessels patrolling in the North Pacific in 2004. PRC officials explained that fuel costs are high and some assistance with these costs would promote PRC enforcement efforts. The PRC has a strong interest in having an enforcement presence in the North Pacific, but is hindered by limited financial resources. The USCG, Department of State, and NMFS are developing a U.S. response to this request.

b. U.S.-Italy Driftnet Agreement

Following an order of the U.S. Court of International Trade, the United States on 19 March 1999 identified Italy as a nation for which there is reason to believe its nationals or vessels are conducting large-scale driftnet fishing beyond the EEZ of any nation, pursuant to the U.S. High Seas Driftnet Fisheries Enforcement Act (the Act). This marked the second time the United States identified Italy pursuant to the Act (the first identification was in 1996). As a result of the identification, the United States began consultations with the Government of Italy on 17 April 1999 to obtain an agreement to effect the immediate termination of such activities. Agreement was formally reached by the two countries on 15 July 1999, via an exchange of diplomatic notes. Complete details of the agreement can be found in the NMFS 1999 Driftnet Report to the Congress.

The 1999 driftnet agreement reiterated the Government of Italy's commitment to full implementation of the measures to combat large-scale high seas driftnet fishing contained in the 1996 U.S.-Italy driftnet agreement. As a result of Italy's driftnet vessel conversion program (a product of the 1996 agreement), about 85 percent of Italy's driftnet fleet of 679 vessels were converted to other fishing methods or scrapped by March 2000. The Government of Italy expected the remaining vessels to continue to fish in Italian waters until the EU driftnet ban entered into force in 2002 (Italy is a member of the EU).

Italy took a number of measures in addition to the driftnet vessel conversion program to strengthen the enforcement of its laws relating to driftnet fishing. It publicized a March 1999 court decision prohibiting the possession, as well as use of, driftnets longer than 2.5 kilometers. Italy increased boarding and inspections of driftnet vessels at dockside. The Italian Government implemented a detailed 1999 enforcement action plan involving joint enforcement efforts with European Union fisheries inspectors and proposed bilateral enforcement agreements with other EU Mediterranean countries. The Italian Coast Guard committed to increase at-sea monitoring by regional Coast Guard districts and spot checks of seized driftnets, until such netting can be destroyed.

Developments in 2003: The United States did not receive any credible reports of Italian fishing vessels or nationals using large-scale driftnets on the high seas of the Mediterranean Sea in 2003. In early July 2003, a report on the website for DELPHIS-Mediterranean Dolphin Conservation claimed that a total of 22 Italian driftnet vessels 15-20 m long were fishing for swordfish in the vicinity of the Island of Ischia in the Mediterranean. Although there was no evidence that any of these vessels were fishing beyond Italy's territorial waters with large-scale driftnets, the U.S. Government asked Italian authorities to investigate the report.

On July 25, 2003, representatives of the U.S. Department of State and U.S. Embassy Rome met with Italian fisheries officials to discuss the status of Italy's driftnet fleet. Italian officials described a series of steps that Italy has taken to bring driftnet fishing to an end. These steps included:

- Enacting legislation in December 2002 that requires "compulsory dismissal or conversion" (boats could be scrapped or convert to another gear type) of the driftnet fishing licenses of the remaining 89 licensed driftnet vessels that did not participate in Italy's earlier driftnet conversion program. The legislation allocated a total of 5 million euros, half to be distributed as compensation to vessel owners and the other half to crew members. This sum included funds provided by the Sicilian and Calabrian regional governments.
- Identifying crew members and vessel owners who would be compensated under the retirement scheme. Each valid crew member (about 320 total) would receive 7,500 euros in compensation, even if he converts to another type of fishing. According to the law, the compensation for owners who decide to convert to another type of fishing would vary from 9,861 to 60,333 euros, depending on vessel tonnage. If the owners decide to be

compensated for scrapping their vessels, the compensation (which will also include EU funds) would be much higher, varying from 75,000 to 353,560 euros for the same-size vessels.

- Canceling the driftnet portions of the fishing licenses of all of the 89 remaining vessels.
- Deleting the names of those vessels from the EU Vessel Registry, which contains a unique registration number for each vessel.
- Seizing and sealing the driftnets from all 89 vessels. According to the law, the driftnets can be "recycled or transformed" and the owners will get to keep the profits from recycling operations.
- Receiving European Commission approval for Italy's compensation plan in February 2003. Part of the Commission's review included a finding that the buyback funds were not a "market-distorting measure."
- Seeking to initiate a uniform sanction scheme among all EU member states in order to reduce disparities in the level of sanctions applied for fisheries violations. The EU Fisheries Council will establish a catalogue of sanctions to be applied by member states for serious infringements. Italian officials also mentioned the idea of establishing an EU joint inspection structure at the community level, pooling national and EU monitoring and inspection resources for more effective implementation of control across the EU. Regarding enforcement, Italian officials pointed out that non-EU and North-African fishermen are still allowed to use driftnets. For this reason, the EU will try to transform its driftnet ban into a Mediterranean-wide ban, using the instrument of the General Fisheries Council for the Mediterranean (GFCM). Italy insists on the need for a comprehensive approach by the EU on Mediterranean fisheries issues. For this reason, the Government of Italy organized the Mediterranean Conference on Fisheries that took place in Venice on 25-27 November 2003.
- Considering the use of marine reserves and marine sanctuaries to protect spawning and nursery areas for marine species.

Italian officials were not aware of the report of driftnet fishing operations out of ports on the Island of Ischia, but suggested that there will always be some fishermen who try to break the rules. They provided copies of the July 2002 law establishing the mandatory end of driftnet fishing, and a summary of driftnet Enforcement activities for 2002. They also promised to provide information about seized or surrendered driftnet recycling operations and a summary of driftnet enforcement efforts for 2003. At the time of this report, this information has not yet been received.

4. Resolutions and Letters in Support of UNGA Resolution 44/225

a. UNGA Driftnet Resolutions and Decisions

Details on UNGA Driftnet Resolutions 44/225 (1989), 45/197 (1990), 46/215 (1991), 50/25 (1995), 51/36 (1996), 52/29 (1997), 53/33 (1998), 54/32 (1999), 55/8 (2000), 57/142 (2002) and UNGA Driftnet Decisions 47/443 (1992), 48/445 (1993), and 49/436 (1994), and supporting resolutions and actions taken by the United States in other fora prior to 2003 have been provided in previous driftnet reports to the Congress available from NMFS.

On 24 November 2003, at its fifty-eighth session, the UNGA adopted Resolution A/58/L:18 *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments* (Attachment 2). Section VI of the Resolution reaffirms the importance the General Assembly attaches to continued compliance with its previous driftnet resolutions, and in particular, Resolution 46/215. It urges States and other entities, including intergovernmental organizations, to enforce fully the measures recommended in those resolutions. Finally, it requests that the Secretary-General bring the Resolution to the attention of the international community, relevant intergovernmental organizations, the organizations and bodies of the UN system, regional and subregional fisheries management organizations or arrangements, and relevant nongovernmental organizations and invite them to provide him with information relevant to the implementation of the Resolution.

The Resolution requests the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on *Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments*, taking into account information provided by States and other entities on the relevant paragraphs in Resolution A/58/L:18. In addition, a sub-item with the same title as Resolution A/58/L:18 will be placed under the item “Oceans and the law of the sea” on the agenda of the fifty-ninth session of the UN General Assembly in 2004.

b. UN Driftnet Reports

Since December 1992, the United States has been instrumental in ensuring that implementation of the high seas driftnet moratorium remains a priority of the UNGA. The United States will continue to support UNGA resolutions and decisions requesting that the UN Secretary-General submit to the General Assembly biennial reports on developments relevant to the implementation of the UN driftnet moratorium.

UNGA Resolution 57/142, adopted in November 2002, requested that the Secretary-General submit to the General Assembly at its fifty-seventh session in 2002 a report relating to the implementation of the resolution entitled *Sustainable fisheries, including through the 1995*

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks and related instruments. The Secretary-General's 2003 report did not convey any information on implementation of the UN driftnet moratorium.

B. Support for the Wellington Convention

The United States took no specific actions in support of the Wellington Convention in 2003. Details on U.S. actions taken prior to 2003 are provided in previous driftnet reports to the Congress. No large-scale pelagic driftnet fishing activities were reported in the Wellington Convention area in 2003.

III. EVALUATION OF THE IMPACTS ON LIVING MARINE RESOURCES

A detailed evaluation of the impacts of large-scale high seas driftnet fishing on salmonids, marine mammals and birds, tuna and non-salmonid fishes, and marine turtles was provided in the 1992 report to the Congress. The evaluation was based on catch data from the 1989-1992 scientific driftnet monitoring programs with Japan, Taiwan and the Republic of Korea. However, an enormous amount of North Pacific ecosystem data resulted from the driftnet scientific monitoring programs. Analyses and interpretation of these data continued through 1994 and descriptions of such research were included in the 1993 and 1994 driftnet reports.

IV. LIST AND DESCRIPTION OF ANY NEW FISHERIES DEVELOPED BY NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION

We are not aware of any new fisheries that have been developed by nations that conduct, or authorize their nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation.

V. LIST OF NATIONS THAT CONDUCT, OR AUTHORIZE THEIR NATIONALS TO CONDUCT, LARGE-SCALE DRIFTNET FISHING BEYOND THE EEZ OF ANY NATION IN A MANNER THAT DIMINISHES THE EFFECTIVENESS OF OR IS INCONSISTENT WITH ANY INTERNATIONAL AGREEMENT GOVERNING LARGE-SCALE DRIFTNET FISHING TO WHICH THE UNITED STATES IS A PARTY OR OTHERWISE SUBSCRIBES.

The Secretary has not identified, pursuant to the High Seas Driftnet Fisheries Enforcement Act, any other nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing

beyond the EEZ of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

Italy: As detailed in Section II.A.3.b. of this report, the Secretary of Commerce identified Italy on 19 March 1999 pursuant to the High Seas Driftnet Fisheries Enforcement Act as a nation that conducts, or authorizes its nationals to conduct, large-scale pelagic driftnet fishing on the high seas beyond the EEZ of any nation. On 15 July 1999, the United States and Italy formally agreed on measures to effect the immediate termination of Italian large-scale high seas driftnet fishing. For this reason, the United States did not impose trade sanctions on Italian fish, fish products and sport fishing equipment pursuant to the Act. However, the United States has continued to apply the provision of the High Seas Driftnet Fisheries Enforcement Act that denies entry of Italian large-scale driftnet vessels to U.S. ports and navigable waters. Since 29 May 1996, it has also required Italy to provide documentary evidence pursuant to the Dolphin Protection Consumer Information Act (16 U.S.C. 1371(a)(2)(E)) that certain fish and fish products it wishes to export to the United States are not harvested with large-scale driftnets on the high seas.

The fact that the United States received no reports of Italian fishing vessels using large-scale driftnets on the high seas of the Mediterranean Sea from 1999-2003 speaks for the success of the U.S.-Italy driftnet agreement. The U.S. Government is concerned by the information provided by the Italian Government in July 2003 that 89 vessels had not participated in the Italy's driftnet conversion program, but is hopeful that the "compulsory dismissal or conversion" legislation adopted by Italy in December 2002 and other actions outlined in II.A.3.b. above will bring an end to any illegal driftnet fishing that may still be occurring. The U.S. Government is awaiting further information from Italy on 2003 enforcement and driftnet recycling efforts. The Secretary will consider rescinding the remaining sanctions (denial of port access for Italian driftnet vessels and the import documentation requirements described above) against Italy in 2004.

Morocco: The United States is currently investigating the WWF-International report of large-scale driftnet fishing by Moroccan vessels in the Alboran Sea and near the Straits of Gibraltar. It is not yet clear whether these fisheries involve large-scale nets, or if they are occurring within Moroccan waters or on the high seas of the Mediterranean. The results of the investigation will determine what action, if any, the United States will take pursuant to the High Seas Driftnet Fisheries Enforcement Act.

PRC: As stated earlier, the United States is concerned over the number of PRC driftnet vessels engaged, or potentially, engaged in large-scale high seas squid driftnet fishing in the North Pacific Ocean in 2003. The United States is encouraged with the actions taken by the PRC Government--specifically the imposition of the highest possible fines, the permanent revocation of masters' licenses to fish, the confiscation and auctioning off one of the vessels, and the banning of the other vessels from operating as fishing vessels. In addition, the PRC is re-categorizing the squid fishery as a distant water fishery, which imposes inspection and landing reporting requirements on PRC squid fishing vessels. The U.S. Government will continue to work with the PRC Government to improve PRC enforcement efforts and presence in the North

Pacific. The U.S.-PRC shiprider agreement pursuant to the *Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China on Effective Cooperation and Implementation of United Nations General Assembly Resolution 46/215 of December 20, 1991* is functioning very successfully. The United States will take into consideration the good cooperation received from the PRC Government and the results of the PRC's investigations of the 2003 driftnet cases involving PRC-flagged or owned vessels in determining any actions to take pursuant to the High Seas Driftnet Fisheries Enforcement Act.

Russian Federation and the ROK: The United States has no evidence that the cases of the Russian driftnet vessel, the *ARONT*, and the two ROK driftnet vessels, the *305 KUM MI* and *ZHENG YANG NO.3*, are part of larger high seas driftnet fishing efforts by vessels or individuals of those vessels' respective flag-states. There have been no violations of the UN driftnet moratorium by Russian vessels since 1999 and by ROK vessels since the moratorium entered into force in January 1993. The United States is currently awaiting the results of the Russian and ROK Government investigations of these cases.

[03-04]

**RECOMMENDATION BY ICCAT
RELATING TO MEDITERRANEAN SWORDFISH**

NOTING that the Commission's Standing Committee on Research and Statistics (SCRS) in its May 2003 Mediterranean Swordfish assessment has indicated the presence of a stable recruitment pattern and that the current exploitation pattern and level of exploitation are sustainable, as long as the stock does not decline;

RECOGNIZING that the SCRS recommended that the current levels of exploitation not be exceeded, under the current exploitation patterns;

CONSIDERING that the SCRS also indicated that the percentage of juveniles in the catches is relatively high and a reduction in their catches would improve the yield and spawning biomass per recruit.

**THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:**

1. In order to protect small swordfish, Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall take the necessary measures to reduce the mortality of juvenile swordfish in the entire Mediterranean.
2. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall take the necessary technical measures for their longline fisheries in order to ensure compliance with the objective.
3. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall prohibit the use of driftnets for fisheries of large pelagics in the Mediterranean.



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Oceans and the law of the sea: sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

Austria, Canada, Denmark, Fiji, Finland, France, Greece, Iceland, Ireland, Italy, Marshall Islands, Monaco, Namibia, Nauru, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Russian Federation, Samoa, Solomon Islands, Spain, Sweden, Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland, United States of America and Vanuatu: draft resolution

Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments

The General Assembly,

Reaffirming its resolutions 46/215 of 20 December 1991, 49/116 and 49/118 of 19 December 1994, 50/25 of 5 December 1995 and 57/142 of 12 December 2002 as well as other resolutions on large-scale pelagic drift-net fishing, unauthorized fishing in zones of national jurisdiction and on the high seas, fisheries by-catch and discards, and other developments, and its resolutions 56/13 of 28 November 2001 and 57/143 of 12 December 2002 on the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea ("the Convention"),¹ and bearing in mind the relationship between the

¹ See *The Law of the Sea: Official Texts of the United Nations Convention on the Law of the Sea of 10 December 1982 and of the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 with Index and Excerpts from the Final Act of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.97.V.10).

Convention and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (“the Agreement”),²

Recognizing that, in accordance with the Convention, the Agreement sets forth provisions concerning the conservation and management of straddling fish stocks and highly migratory fish stocks, including provisions on subregional and regional cooperation in enforcement, binding dispute settlement and the rights and obligations of States in authorizing the use of vessels flying their flags for fishing on the high seas,

Noting that the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (“the Code”)³ and its associated international plans of action set out principles and global standards of behaviour for responsible practices to conserve, manage and develop fisheries, including guidelines for fishing on the high seas and in areas under the national jurisdiction of other States, and on fishing gear selectivity and practices, with the aim of reducing by-catch and discards,

Noting with satisfaction the recently adopted Food and Agriculture Organization of the United Nations Strategy for Improving Information on Status and Trends of Capture Fisheries,⁴ and recognizing that the long-term improvement of knowledge and understanding of fishery status and trends is a fundamental basis for fisheries policy and management for implementing the Code,

Recognizing the need to implement, as a matter of priority, the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation),⁵ in relation to achieving sustainable fisheries,

Deploing the fact that fish stocks, including straddling fish stocks and highly migratory fish stocks, in many parts of the world are overfished or subject to sparsely regulated and heavy fishing efforts, mainly as a result of, inter alia, unauthorized fishing, inadequate regulatory measures and excess fishing capacity,

Concerned that illegal, unreported and unregulated fishing threatens seriously to deplete populations of certain fish species and to significantly damage marine ecosystems, to the detriment of sustainable fisheries as well as the food security and the economies of many States, particularly developing States,

Recognizing that inadequate flag State control over fishing vessels, including those fishing for straddling fish stocks and highly migratory fish stocks, and insufficient monitoring, control and surveillance measures exacerbate the problem of overfishing,

² *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

³ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. III.

⁴ *FAO Strategy for Improving Information on Status and Trends of Capture Fisheries* (Rome, FAO, 2003). 34 p.

⁵ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

Recognizing also that the interrelationship between ocean activities, such as shipping and fishing, and environmental issues needs further consideration,

Calling attention to the circumstances affecting fisheries in many developing States, in particular, African States and small island developing States, and recognizing the urgent need for capacity-building to assist such States in meeting their obligations under international instruments and realizing the benefits from fisheries resources,

Noting the obligation of all States, pursuant to the provisions of the Convention, to cooperate in the conservation and management of straddling fish stocks and highly migratory fish stocks, and recognizing the importance of coordination and cooperation at the global, regional, subregional as well as national levels in the areas, inter alia, of data collection, information-sharing, capacity-building and training for the conservation, management and sustainable development of marine living resources,

Recognizing the duty provided in the Convention, the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (“the Compliance Agreement”),⁶ the Agreement and the Code for flag States to exercise effective control over fishing vessels flying their flag and vessels flying their flag which provide support to such vessels, and to ensure that the activities of such vessels do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at the national, subregional, regional or global levels,

Recognizing also the urgent need for action at all levels to ensure the long-term sustainable use and management of fisheries resources,

Recognizing further the economic and cultural importance of sharks in many countries, the biological importance of sharks in the marine ecosystem, the vulnerability of some shark species to over-exploitation and the need for measures to promote the long-term sustainability of shark populations and fisheries,

Reaffirming its support for the initiative of the Food and Agriculture Organization of the United Nations and relevant regional and subregional fisheries management organizations and arrangements on the conservation and management of sharks, while noting with concern that only a small number of countries have implemented the 1999 International Plan of Action for the Conservation and Management of Sharks of the Food and Agriculture Organization,

Noting with satisfaction the outcomes of the second round of informal consultations of States parties to the Agreement, held in New York from 23 to 25 July 2003,

Taking note with appreciation of the report of the Secretary-General,⁷ and emphasizing the useful role that the report plays in bringing together information relating to the sustainable development of the world’s marine living resources provided by States, relevant international organizations, regional and subregional fisheries organizations and non-governmental organizations,

⁶ *International Fisheries Instruments with Index* (United Nations publication, Sales No. E.98.V.11), sect. II.

⁷ A/58/215.

Noting with satisfaction that the incidence of reported large-scale pelagic drift-net fishing activities in most regions of the world's oceans and seas has continued to be low,

Expressing concern that the practice of large-scale pelagic drift-net fishing remains a threat to marine living resources,

Emphasizing that efforts should be made to ensure that the implementation of resolution 46/215 in some parts of the world does not result in the transfer to other parts of the world of drift-nets that contravene the resolution,

Expressing concern at the reports of continued loss of seabirds, particularly albatrosses, as a result of incidental mortality from longline fishing operations, and the loss of other marine species, including sharks and fin-fish species, as a result of incidental mortality, and noting with satisfaction the imminent entry into force of the Agreement on the Conservation of Albatrosses and Petrels under the Convention on the Conservation of Migratory Species of Wild Animals,

Welcoming the fact that a growing number of States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, as well as regional and subregional fisheries management organizations and arrangements, have enacted legislation, established regulations, adopted conventions or taken other measures as steps towards implementation of the provisions of the Agreement,

Recognizing the significant contribution of sustainable fisheries to food security, income and wealth for present and future generations,

I. Achieving sustainable fisheries

1. *Reaffirms* the importance it attaches to the long-term conservation, management and sustainable use of the marine living resources of the world's oceans and seas and the obligations of States to cooperate to this end, in accordance with international law, as reflected in the relevant provisions of the Convention,¹ in particular the provisions on cooperation set out in Part V and Part VII, section 2, of the Convention regarding straddling stocks, highly migratory species, marine mammals, anadromous stocks and marine living resources of the high seas, and where applicable, the Agreement;²

2. *Calls upon* all States that have not done so, in order to achieve the goal of universal participation, to become parties to the Convention, which sets out the legal framework within which all activities in the oceans and seas must be carried out, taking into account the relationship between the Convention and the Agreement;

3. *Reaffirms* the importance of the Johannesburg Plan of Implementation in relation to fisheries, in particular the commitment made therein to restore depleted fish stocks on an urgent basis and, where possible, not later than 2015;⁸

4. *Urges* all States to apply the precautionary approach widely to the conservation, management and exploitation of fish stocks, including straddling fish stocks and highly migratory fish stocks, and calls upon States parties to the

⁸ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex, para. 31 (a).

Agreement to implement fully the provisions of article 6 of the Agreement as a matter of priority;

II. Implementation of the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

5. *Calls upon* all States, and entities referred to in the Convention¹ and in article 1, paragraph 2 (b), of the Agreement,² that have not done so to ratify or accede to the Agreement and to consider applying it provisionally;

6. *Emphasizes* the importance of the effective implementation of the provisions of the Agreement, including those provisions relating to bilateral, regional and subregional cooperation in enforcement, and urges continued efforts in this regard;

7. *Welcomes* the entry into force of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean on 13 April 2003, and invites signatory States and other States with real interest whose vessels fish in the Convention area for fishery resources covered by that Convention to ratify or to accede to the Convention;

8. *Calls upon* all States to ensure that their vessels comply with the conservation and management measures that have been adopted by subregional and regional fisheries management organizations and arrangements in accordance with relevant provisions of the Convention and of the Agreement;

9. *Invites* States and international financial institutions and organizations of the United Nations system to provide assistance according to Part VII of the Agreement, including, if appropriate, the development of special financial mechanisms or instruments to assist developing States, in particular the least developed among them and small island developing States, to enable them to develop their national capacity to exploit fishery resources, including developing their domestically flagged fishing fleet, value-added processing and the expansion of their economic base in the fishing industry, consistent with the duty to ensure the proper conservation and management of those fisheries resources;

10. *Decides* to establish an Assistance Fund under Part VII of the Agreement to assist developing States parties in the implementation of the Agreement, to be administered by the Food and Agriculture Organization of the United Nations, which should act as the implementing office for the Fund, in collaboration with the United Nations, in accordance with the terms of reference as agreed at the second round of informal consultations of the States parties to the Agreement and appropriate arrangements made between them;

11. *Emphasizes* the importance of outreach to potential donor organizations to contribute to the programme of assistance, including the newly established Assistance Fund under Part VII of the Agreement;

12. *Recalls* paragraph 6 of its resolution 56/13, and requests the Secretary-General to convene a third round of informal consultations of States parties to the Agreement, for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, in particular by

conducting an evaluation of the implementation of the Agreement by regional fisheries management organizations as well as considering initial preparatory steps for the review conference to be convened by the Secretary-General pursuant to article 36 of the Agreement, and making any appropriate recommendation to the General Assembly;

13. *Requests* the Secretary-General to invite States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, not party to the Agreement, as well as the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Commission on Sustainable Development, the World Bank, the Global Environment Facility and other relevant international financial institutions, regional fishery bodies and arrangements and relevant non-governmental organizations to attend the third round of informal consultations of States parties to the Agreement as observers;

III. Related fisheries instruments

14. *Welcomes* the entry into force of the Compliance Agreement⁶ and calls upon all States and other entities referred to in article 10, paragraph 1, of the Compliance Agreement that have not yet deposited instruments of acceptance to do so as a matter of priority;

15. *Urges* parties to the Compliance Agreement to exchange information in the implementation of that Agreement;

16. *Urges* States and subregional and regional fisheries management organizations and arrangements to promote the application of the Code within their areas of competence;

17. *Invites* States to support implementation of the Food and Agriculture Organization of the United Nations Strategy for Improving Information on Status and Trends of Capture Fisheries⁴ at the national and regional levels, giving particular emphasis to capacity-building in developing countries;

18. *Urges* States to develop and implement national and, as appropriate, regional plans of action to put into effect the international plans of action of the Food and Agriculture Organization of the United Nations, namely the International Plan of Action for the Management of Fishing Capacity, the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries, the International Plan of Action for the Conservation and Management of Sharks and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

IV. Illegal, unreported and unregulated fishing

19. *Calls upon* States not to permit vessels flying their flag to engage in fishing on the high seas or in areas under the national jurisdiction of other States, unless duly authorized by the authorities of the States concerned and in accordance with the conditions set out in the authorization, without having effective control over their activities, and to take specific measures, including deterring the reflagging of vessels by their nationals, in accordance with the relevant provisions of the Convention, the Agreement and the Compliance Agreement, to control fishing operations by vessels flying their flag;

20. *Affirms* the need to strengthen, where necessary, the international legal framework for intergovernmental cooperation, in particular at the regional and subregional levels, in the management of fish stocks and in combating illegal, unreported and unregulated fishing, in a manner consistent with international law, and for States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to collaborate in efforts to address these types of fishing activities;

21. *Encourages* States to consider becoming members of the International Monitoring, Control, and Surveillance Network for Fisheries-Related Activities, a voluntary network of monitoring, control and surveillance professionals designed to facilitate exchange of information and to support countries in discharging their obligations pursuant to international agreements, in particular the Compliance Agreement;

22. *Invites* the International Maritime Organization and other relevant competent international organizations to study, examine and clarify the role of the “genuine link” in relation to the duty of flag States to exercise effective control over ships flying their flag, including fishing vessels;

23. *Calls upon* flag and port States to take all measures consistent with international law necessary to prevent the operation of sub-standard vessels and illegal, unreported and unregulated fishing activities;

24. *Encourages* States in their work with regional and subregional fisheries management organizations and arrangements to develop and implement vessel monitoring systems and, where appropriate and consistent with international law, trade monitoring schemes;

25. *Urges* States to develop and implement national and, where appropriate, regional plans of action, to put into effect by 2004 the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing of the Food and Agriculture Organization of the United Nations and to establish effective monitoring, reporting and enforcement and control of fishing vessels, including by flag States, to further the International Plan of Action;

26. *Urges* relevant regional and subregional fisheries management organizations and arrangements to implement effective measures against illegal, unreported and unregulated fishing, inter alia, by compiling a record of vessels authorized to fish in their area of competence, in accordance with the Code;

27. *Urges* States to eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to overcapacity, while completing the efforts undertaken at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;

28. *Commends* the Food and Agriculture Organization of the United Nations for its activities in combating illegal, unreported and unregulated fishing, including its initiative to organize the intergovernmental Technical Consultation on illegal, unreported and unregulated fishing and fleet overcapacity to be held in June 2004, and the intergovernmental Technical Consultation on the role of the Port State in combating illegal, unreported and unregulated fishing, to be held in September 2004;

29. *Recognizes* the need for enhanced port State controls to combat illegal, unreported and unregulated fishing, urges States to cooperate, in particular at the regional level, and through regional and subregional fisheries management organizations and arrangements, as well as through participation, where appropriate, in the efforts of the Food and Agriculture Organization of the United Nations in cooperation with the International Maritime Organization to address substantive issues relating to the role of the port State, noting that such efforts include the elaboration of principles and guidelines for the establishment of regional memoranda of understanding on port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing;

V. Fishing overcapacity

30. *Calls upon* States and relevant regional fisheries management organizations, as a matter of priority, to take effective measures to improve the management of fishing capacity and to put into effect the 1999 Food and Agriculture Organization of the United Nations International Plan of Action for the Management of Fishing Capacity by 2005, taking into account the need, through these actions, to avoid the transfer of fishing capacity to other fisheries or areas including, but not limited to, those areas where fisheries are over-exploited or in a depleted condition;

31. *Urges* those States and other entities referred to in article X, paragraph 1, of the Compliance Agreement that have become parties to that Agreement to establish a record of fishing vessels authorized to fish on the high seas and, pursuant to articles IV and VI, to make such a record available to the Food and Agriculture Organization of the United Nations as a matter of priority, and urges the Food and Agriculture Organization to quickly establish the record of fishing vessels as called for in the Compliance Agreement;

32. *Calls upon* all States to assist this work of the Food and Agriculture Organization of the United Nations, to take measures to halt the increase of large-scale fishing vessels in accordance with the International Plan of Action for the Management of Fishing Capacity and to participate in the intergovernmental Technical Consultation on illegal, unreported and unregulated fishing and fleet overcapacity to be organized by the Food and Agriculture Organization in 2004;

VI. Large-scale pelagic drift-net fishing

33. *Reaffirms* the importance it attaches to continued compliance with its resolution 46/215, and other subsequent resolutions on large-scale pelagic drift-net fishing, and urges States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to enforce fully the measures recommended in those resolutions;

VII. Fisheries by-catch and discards

34. *Urges* States, relevant international organizations and regional and subregional fisheries management organizations and arrangements that have not done so to take action to reduce or eliminate by-catch, catch by lost or abandoned gear, fish discards and post-harvest losses, including juvenile fish, consistent with international law and relevant international instruments, including the Code, and in particular to consider measures including, as appropriate, technical measures related to fish size, mesh size or gear, discards, closed seasons and areas and zones reserved

for selected fisheries, particularly artisanal fisheries, the establishment of mechanisms for communicating information on areas of high concentration of juvenile fish, taking into account the importance of ensuring confidentiality of such information, and support for studies and research that will reduce or eliminate by-catch of juvenile fish;

35. *Encourages* States and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement to give due consideration to participation, as appropriate, in regional and subregional organizations with mandates to conserve non-target species taken incidentally in fishing operations, and notes in particular the Inter-American Convention for the Protection and Conservation of Sea Turtles and Their Habitats, regional sea turtle conservation instruments in the West African, the wider Caribbean, and the Indian Ocean/South-East Asia regions, the work of the Southeast Asian Fisheries Development Centre on turtle conservation and management, the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas and the Agreement on the Conservation of Albatrosses and Petrels under the Convention on the Conservation of Migratory Species of Wild Animals in this regard;

36. *Notes with satisfaction* the activities of the Food and Agriculture Organization of the United Nations, in cooperation with relevant United Nations agencies, in particular the United Nations Environment Programme and the Global Environment Facility, aimed at promoting the reduction of by-catch and discards in fisheries activities;

VIII. Subregional and regional cooperation

37. *Urges* coastal States and States fishing on the high seas, in accordance with the Convention and the Agreement, to pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, to ensure the effective conservation and management of such stocks;

38. *Encourages* States fishing for straddling fish stocks and highly migratory fish stocks on the high seas and relevant coastal States, where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for such stocks, to give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement;

39. *Invites*, in this regard, subregional and regional fisheries management organizations and arrangements to ensure that all States having a real interest in the fisheries concerned may become members of such organizations or participants in such arrangements, in accordance with the Convention and the Agreement;

40. *Encourages* relevant coastal States and States fishing on the high seas for a straddling fish stock or highly migratory fish stock, where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for such stock, to cooperate to establish such an organization or enter into another appropriate arrangement to ensure the conservation and management of such stocks, and to participate in the work of the organization or arrangement;

41. *Welcomes* the initiation of negotiations and ongoing preparatory work to establish regional and subregional fisheries management organizations or arrangements in several fisheries, and urges participants in those negotiations to apply provisions of the Convention and the Agreement to their work;

42. *Encourages* States to develop ocean policies and mechanisms on integrated management, including at the subregional and regional levels, and also including assistance to developing States in accomplishing these objectives, as well as by promoting improved cooperation between regional fisheries management organizations and other regional entities, such as the United Nations Environment Programme regional seas programmes and conventions;

IX. Responsible fisheries in the marine ecosystem

43. *Encourages* States to apply by 2010 the ecosystem approach, notes the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem⁹ and decisions V/6¹⁰ and VI/12¹¹ of the Conference of the Parties to the Convention on Biological Diversity, encourages States to consider the Food and Agriculture Organization of the United Nations guidelines for the implementation of ecosystem considerations in fisheries management, and notes the importance of relevant provisions of the Agreement and the Code to this approach;

44. *Calls upon* the Food and Agriculture Organization of the United Nations, the United Nations Environment Programme, in particular its Regional Seas programme, the International Maritime Organization, regional and subregional fisheries management organizations and arrangements and other appropriate intergovernmental organizations to take up, as a matter of priority, the issue of marine debris as it relates to fisheries and, where appropriate, to promote better coordination and help States to implement fully relevant international agreements, including annex V to the Guidelines of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

45. *Urges* all States to implement the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and to accelerate activity to safeguard the marine environment against pollution and physical degradation;

46. *Requests* the Secretary-General, in close cooperation with the Food and Agriculture Organization of the United Nations, and in consultation with States, regional and subregional fisheries management organizations and arrangements and other relevant organizations, in his next report concerning fisheries, to include a section outlining current risks to the marine biodiversity of vulnerable marine ecosystems including, but not limited to, seamounts, coral reefs, including cold water reefs and certain other sensitive underwater features, related to fishing activities, as well as detailing any conservation and management measures in place at the global, regional, subregional or national levels addressing these issues;

47. *Calls upon* States, the Food and Agriculture Organization of the United Nations and subregional or regional fisheries management organizations and

⁹ E/CN.17/2002/PC.2/3, annex.

¹⁰ See UNEP/CBD/COP/5/23, annex III.

¹¹ See UNEP/CBD/COP/6/20, annex I.

arrangements to implement fully the 1999 International Plan of Action for the Conservation and Management of Sharks of the Food and Agriculture Organization, as a matter of priority, inter alia, by conducting assessments of shark stocks and developing and implementing national plans of action, recognizing the need of some States, in particular developing States, for assistance in this regard;

48. *Urges* States, including those working through subregional or regional fisheries management organizations and arrangements in implementing the 1999 International Plan of Action for the Conservation and Management of Sharks of the Food and Agriculture Organization of the United Nations, to collect scientific data regarding shark catches and to consider adopting conservation and management measures, particularly where shark catches from directed and non-directed fisheries have a significant impact on vulnerable or threatened shark stocks, in order to ensure the conservation and management of sharks and their long-term sustainable use, including by banning directed shark fisheries conducted solely for the purpose of harvesting shark fins and by taking measures for other fisheries to minimize waste and discards from shark catches and to encourage the full use of dead sharks;

49. *Urges* all States to cooperate with the Food and Agriculture Organization of the United Nations in order to assist developing States in implementing the 1999 International Plan of Action for the Conservation and Management of Sharks of the Food and Agriculture Organization, including through voluntary contributions to work of the organization, such as its FishCode programme;

50. *Invites* the Food and Agriculture Organization of the United Nations, in consultation with relevant subregional or regional fisheries management organizations or arrangements, to prepare a study relating to the impact on shark populations of shark catches from directed and non-directed fisheries and their impact on ecologically related species, taking into account the nutritional and socio-economic considerations as reflected in the 1999 International Plan of Action for the Conservation and Management of Sharks of the Food and Agriculture Organization, particularly as they relate to small-scale, subsistence and artisanal fisheries and communities, as well as updating the 1999 Food and Agriculture Organization Technical Paper 389, entitled "Shark Utilization, Marketing and Trade", in order to facilitate improved shark conservation, management and utilization, and to report to the Secretary-General for inclusion in a fisheries-related report as soon as practicable;

X. Capacity-building

51. *Reiterates* the crucial importance of cooperation by States directly or, as appropriate, through the relevant regional and subregional organizations, and by other international organizations, including through financial and/or technical assistance, in accordance with the Agreement, the Compliance Agreement, the Code and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, to increase the capacity of developing States to achieve the goals and implement the actions called for in the present resolution;

52. *Invites* States and relevant intergovernmental organizations to develop projects, programmes and partnerships with relevant stakeholders and mobilize resources for the effective implementation of the outcome of the African Process for the Protection and Development of the Marine and Coastal Environment, and to consider the inclusion of fisheries components in this work;

53. *Also invites* States and relevant intergovernmental organizations to further implement sustainable fisheries management and improve financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations, as appropriate, such as the Caribbean Regional Fisheries Mechanism, and such agreements as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific;

XI. Cooperation within the United Nations system

54. *Requests* the relevant parts of the United Nations system, international financial institutions and donor agencies to support increased enforcement and compliance capabilities for regional fisheries management organizations and their member States;

55. *Invites* the Food and Agriculture Organization of the United Nations to continue its cooperative arrangements with United Nations agencies on the implementation of the international plans of action and to report to the Secretary-General, for inclusion in his annual report on oceans and the law of the sea, on priorities for cooperation and coordination in this work;

XII. Fifty-ninth session of the General Assembly

56. *Requests* the Secretary-General to bring the present resolution to the attention of all members of the international community, relevant intergovernmental organizations, the organizations and bodies of the United Nations system, regional and subregional fisheries management organizations and relevant non-governmental organizations, and to invite them to provide the Secretary-General with information relevant to the implementation of the present resolution;

57. *Also requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”, taking into account information provided by States, relevant specialized agencies, in particular the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, regional and subregional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and non-governmental organizations, and consisting, inter alia, of elements provided in relevant paragraphs in the present resolution;

58. *Decides* to include in the provisional agenda of its fifty-ninth session, under the item entitled “Oceans and the law of the sea”, a sub-item entitled “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”.